



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/777,500

02/05/2001

Nicholas William Sincaglia

21685-06151

8385

45506

7590

09/27/2006

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

EXAMINER

EHICHIOYA, FRED I

ART UNIT

PAPER NUMBER

2162

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

(2) Related Appeals and Interferences



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 27 2006

Technology Center 2100

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/777,500
Filing Date: February 05, 2001
Appellant(s): SINCAGLIA ET AL.

Al AuYeung, Reg. No. 35,432
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 16, 2006.

(1) Real Party in interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

Appellant's brief presents arguments relating to 35 U.S.C. §112, first paragraph. This argument is erroneous since there was no claim rejected under 35 U.S.C. §112, first paragraph. This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201. However, the objection of the last Office Action is hereby withdrawn.

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct except that 35 U.S.C. §112, first paragraph is dismissed.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,412,004	Chen et al.;	6-2002
6,453,355	Jones et al.;	92002
6,510,553	Hazra	1-2003
6,385,596	Wiser et al.;	5-2002
6,209,787	Iida	4-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

Claims 9, 33 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,412,004 issued to Ling Tony Chen et al. (hereafter "Chen") in view of U.S. Patent 6,453,355 issued to Anne Jones et al (hereinafter "Jones").

Regarding claims 9, 33 and 45, Chen teaches a method for servicing media data requests in a meta data server, the method comprising:

receiving a media data request from a client, the request received by a meta data server (see column 11, lines 8 - 17),

transmitting the meta data to the client for use by the client to locate the media data server to retrieve the media data(see column 4, lines 55 – 67).

the media data server being separate and independently operated from the meta data server (see column 8, lines 26 – 31), including without substantive continuous observation by, and communication with the meta data server (see column 7, lines 23 – 28).

Chen does not explicitly teach retrieving meta data associated with the media data request from a meta data database, the meta data identifying a media data server having the requested media data.

Jones teaches retrieving meta data associated with the media data request from a meta data database, the meta data identifying a media data server having the requested media data (see column 5, lines 24 – 29), an entity different from the media service provider (see column 14, lines 1 – 18).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Jones' teaching of "entity different from the media service provider" would have allowed Chen's system to perform the packetization of the media data when required on the transmitting system according to the particular transmission protocol which is desired; consequently solving the problems of streaming time related sequences as suggested by Jones at column 6, lines 25 - 31.

Claims 10, 11, 12, 13, 14, 15, 23, 35, 36, 37, 38, 47, 48, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Jones and further in view of U.S. Patent 6,510,553 issued to Rajeeb Hazra (hereinafter "Hazra").

Regarding claim 10, Chen and Jones discloses the claimed subject matter as discussed in claim 9. However, Hazra teaches wherein the meta data contains an

Art Unit: 2162

address of said media data servers, and the method further comprises (see column 6, lines 37 – 42):

designating said media data server a primary media data server, based upon at least criteria gathered from a communication network between the client and the media data servers (see column 5, lines 43 - 65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine teaching of Hazra with the teaching of Chen and Jones wherein meta-data is used to locate media data from the Internet. The motivation is that the data are compressed and transmitted as audio stream. This makes the transmission much faster.

Regarding claim 11, Chen and Jones discloses the claimed subject matter as discussed in claim 10. However, Hazra teaches, wherein the media data server designated as a primary media data server is media data server having a lowest number of clients accessing media data among a community of media data servers having the media data (see column 5, lines 52 - 55).

Regarding claim 12, Chen and Jones discloses the claimed subject matter as discussed in claim 10. However, Hazra teaches wherein the media data server designated as a primary media data server is media data server having a highest reliability rating, among a community of media data servers having the media data (see column 5, lines 52 - 54).

Regarding claim 13, Chen and Jones discloses the claimed subject matter as discussed in claim 10. However, Hazra teaches wherein the media data server designated as a primary media data server is media data server having a highest data throughput, among a community of media data servers having the media data (see column 2, lines 51 - 55).

Regarding claim 14, Chen and Jones discloses the claimed subject matter as discussed in claim 10. However, Hazra teaches the primary media data server is designated by the meta data server (see column 8, lines 26 - 31).

Regarding claim 15, Chen and Jones discloses the claimed subject matter as discussed in claim 10. However, Hazra teaches the primary media data server is designated by the client (see column 5, lines 52 - 62).

Regarding claims 23, 35 and 47, Chen and Jones discloses the claimed subject matter as discussed in claims 9, 33 and 45 respectively. However, Hazra teaches wherein the meta data transmitted to the client are for a portion of the requested media data that is unusable without an additional portion of the requested media data, and the method further comprises:

receiving request from the client for additional meta data for the additional portion of the requested media data (see column 4, lines 61 - 67); and

transmitting the additional meta data to the client (see column 5, lines 58 - 59).

Regarding claims 36 and 48, Hazra teaches the electronic device is a computer system (see column 5, lines 15 - 18).

Regarding claims 37 and 49, Hazra teaches the requested media content is accessible from the electronic device over the Internet (see column 5, lines 15 - 21).

Regarding claims 38 and 50, Hazra teaches the requested media content is an audio file (see column 5, lines 55 - 59).

Claims 18, 21, 34 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Jones and further in view U.S. Patent 6,385,596 issued to Philip R. Wiser et al (hereinafter "Wiser").

Regarding claims 18, 34 and 46, Chen and Jones discloses the claimed subject matter as discussed in claims 9, 33 and 45 respectively. However, Wiser teaches wherein the requested media data are encrypted, and the method further comprises (see column 3, lines 51 - 63):

requesting decryption key for the requested media data from a meta data database, in response to another request from the client, subsequent to providing of the meta data, and retrieving of the media data by the client (see column 4, lines 33 - 36);
and transmitting the decryption key to the client (see column 4, lines 36 - 41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine teaching of Wiser with the teaching of Chen and Jones wherein the additional media data is known only to the purchaser of these media data. The motivation is that these portion of the media data provide additional security measures in combination with the encryption mechanisms.

Regarding claim 21, Wiser teaches receiving a log-in request from said client over the communication network (see column 20, lines 19 – 43); and

performing a client access permission verification (see column 20, lines 57 – 64 and column 22, lines 20 – 24).

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Jones and further in view of U.S. Patent 6,209,787 issued to Takahito Iida (hereinafter “Iida”).

Regarding claim 20, Chen and Jones disclose the claimed subject matter as discussed in claim 9. Chen teaches wherein said meta data comprises at least one data item, said at least one data item selected from the list of:

a network address of a primary media data server that has access to the media data (see column 7, lines 19 – 31);

a directory structure of the primary media data server (see column 9, lines 29 – 38);

Art Unit: 2162

a name of a file having the media data (see column 9, lines 39 – 45);

a network address of an alternate media data server that has access to the media data (see column 7, lines 19 – 31);

a directory structure of the alternate media data server (see column 9, lines 19 – 38);

a network address of a graphic image server that has access to a graphical image associated with the media data (see column 4, lines 21 – 23 and column 7, lines 19 – 31);

a directory structure of the graphical image server (see column 4, lines 21 – 23 and column 9, lines 29 - 31);

a network address of an information server that has access to additional information about artistic work contained in the media data (See column 7, lines 19 – 31; lida teaches “artistic work” in column 11, lines 26 – 36);

a directory structure of the information server (see column 9, lines 29 – 38; lida teaches “artistic work” in column 11, lines 26 – 36);

a network address of a sales server which offers a sale of the media data file (see column 7, lines 19 – 35);

a directory structure of the sales server (see column 9, lines 29 – 38);

Chen or Jones does not explicitly teach a name of and owner of the media data; a name of a composer of the media data; a name of a copyright holder of the media data; a name of a graphical image file associated with the media data file; a title of an

Art Unit: 2162

artistic work contained in the media data; a title of a body of work in which the media data is associated; a name of at least one performer of the media data; a name of at least one composer of artistic work contained on the media data; a name of at least one creators of the media data; a name of a file that contains additional information about artistic work contained in the media data; a name of a file that contains information on a sale of the media data; a network address of an associated sales server which offers a sale of associated products of the media data; a directory structure of a storage device that contains sales information for the associated products of the media data file; and a name of a file that contains information on sales of associated products of the media data file.

lida teaches a name of an owner of the media data (see column 49, lines 20 – 67);

a name of a composer of the media data (see column 49, lines 20 – 67);

a name of a copyright holder of the media data (see column 40, lines 49 – 59);

a name of a graphical image file associated with the media data (see column 37, lines 58 – 67 and column 38, lines 1 – 2);

a title of an artistic work contained in the media data (see column 12, lines 17 – 25);

a title of a body of work in which the media data is associated (see column 11, lines 33 – 36 and column 17, lines 12 – 53);

a name of at least one performer of the media data(see column 12, lines 17 – 25 and column 17, lines 12 – 53);

Art Unit: 2162

a name of at least one composer of artistic work contained in the media data
(see column 12, lines 17 – 25 and column 17, lines 12 – 53);

a name of at least one creators of the media data (see column 17, lines 12 – 53);

a name of a file that contains additional information about artistic work contained
in the media data (see column 11, lines 26 – 36);

a name of a file that contains information on a sale of the media data (see
column 77, lines 29 – 43);

a network address of an associated sales server which offers a sale of
associated products of the media data (see column 75, line 23 and column 77, lines 29
– 45);

a directory structure of the associated sales server(see Chen: column 9, lines 29
– 38, column 79, lines 64 – 67 and column 80, lines 1 – 3); and

a name of a file that contains information on sales of associated products of the
media data (see column 77, lines 29 – 43).

It would have been obvious to one of ordinary skill in the art at the time the
invention was made to combine teaching of .lida with the teaching of Chen and Wiser
wherein videos, CDs, musical selections or any other multimedia data are selected and
purchased over the network, The motivation is that this purchases are safe and secure
due to encryption mechanism.

(10) Response to Argument

Response to Appellant's Argument regarding claims 9 – 15, 18, 20 – 21, 23, 33 – 38, and 45 – 50 stand reject under 35 U.S.C. § 103(a).

(i) Claims 9, 33 and 45

Claims 9, 33, and 45 include the recitation that the media data servers are separate and independently operated from the meta data server(s). The independent operation includes without continuous observing by, and communicating with the meta data server.

In contrast, Chen teaches the employment of meta servers and media servers that are tightly coupled, including the continuous monitoring of the media servers (see e.g. col. 11, lines 1 – 3), and Jones teaches the serving of a media file (having meta data interleaved therein) from an integrated web server system (see e. g. Fig. 6) as argued on page 6, paragraphs 2 and 3.

In response to appellant's argument, Examiner respectfully disagrees with the appellant. First of all, Examiner wishes to point out that in rejecting claims 9, 13 and 45, no reference was made to Chen - col. 11, lines 1 – 3 contrary to what is argued by the appellant. Secondly, Examiner wishes to state that the teaching of Chen as shown on column 8, lines 26 – 31 that "the metaserver can coordinate a plurality of multimedia

Art Unit: 2162

servers located in different geographical areas” can be translated as “the media data server being separate and independently operated from the meta data server” and Chen’s teaching on column 7, lines 24 – 27 that “the metaserver periodically communicates with each multimedia server” can also be translated as “without continuously observing by, and communicating with the meta data server”. Contrary to appellant’s argument, Jones in Fig. 6 explains the network of computer systems and access to the Internet. It is well known to those in the art that client computers or servers accessing the Internet are separated and independent. As explained by Jones in column 13, lines 67 – column 14, line 5, plurality of clients systems can access the Internet through different Internet service providers. Examiner rejected these claims as declared in section **(9) Grounds of Rejection** above. For at least the response to above argument, examiner submits that these rejections should be sustained.

(ii) Claims 10 – 15, 23, 25, 35 – 38, and 47 – 50

Examiner respectfully traverses the presumptions of the appellant that claims 10 – 15, 23, 25, 35 – 38, and 47 – 50 are patentable as argued on page 7. Examiner rejected these claims as declared in section **(9) Grounds of Rejection** above. Since claims 10 – 15, 23, 25, 35 – 38, and 47 – 50 depend from either claim 9, 33 or 45 and for at least the response to argument (i) above which addresses this argument and also applicable herewith, examiner submits that these rejections should be sustained.

(iii) Claims 18, 21, 34, and 46

Examiner respectfully traverses the presumptions of the appellant that claims 18, 21, 34, and 46 are patentable as argued on page 7. Examiner rejected these claims as declared in section **(9) Grounds of Rejection** above. Since claims 18, 21, 34, and 46 depend from either claim 9, 33 or 45 and for at least the response to argument (i) above which addresses this argument and also applicable herewith, examiner submits that these rejections should be sustained.

(iv) Claim 20

Examiner respectfully traverses the presumptions of the appellant that claim 20 is patentable as argued on page 7. Examiner rejected these claims as declared in section **(9) Grounds of Rejection** above. Since claim 20 depends from claim 9 and for at least the response to argument (i) above which addresses this argument and also applicable herewith, examiner submits that these rejections should be sustained.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

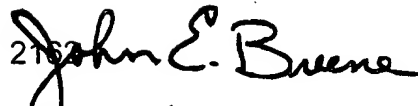
Examiner Fred Ehichioya



September 21, 2006

Conferees:

John Breene, Supervisory Patent Examiner, AU 2162



Hosain Alam, Supervisory Patent Examiner, AU 2166



Al AuYeung
Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600 – 1900
1211 SW Fifth Avenue
Portland, Oregon 97222